

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Denessa Westbrook, April Westbrook,
and Martin Westbrook,

Plaintiffs,

No. 09-11457

v.

Hon. Nancy G. Edmunds

Larry Davis, Joseph Weekley, Jason
Brasgalla, Kevin Shephard, G. Chester,
D. Foster, C. Anderson, T. Dollinger,
S. Howitt, and E. Hayes,

Defendants.

/

ORDER OF DISMISSAL AS TO
PLAINTIFFS' STATE LAW CLAIMS

Plaintiffs Denessa Westbrook, April Westbrook, and Martin Westbrook filed suit against Defendants Larry Davis, Joseph Weekley, Jason Brasgalla, Kevin Shephard, G. Chester, D. Foster, C. Anderson, T. Dollinger, S. Howitt, and E. Hayes, in the Circuit Court for the County of Wayne. Defendants filed a notice of removal to this Court on April 17, 2009. Defendants' notice for removal is timely under 28 U.S.C. § 1446.

While alleged violations of 42 U.S.C. § 1983 and the U.S. Constitution are cognizable in this Court pursuant to 28 U.S.C. § 1343, Plaintiffs' complaint also presents claims based on state law. Since the parties to this matter are nondiverse, this Court declines to exercise supplemental jurisdiction over the latter claims so as to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994). Thus, pursuant to 28

U.S.C. § 1367(c), all of plaintiffs' state law claims including, without limitation, assault (Count I), false imprisonment (Count II), gross negligence (Count III), intentional infliction of emotional distress (Count IV), and violation of MCL § 780.656 (¶ 52, Count VI) are hereby REMANDED to Wayne County Circuit Court. This Court will retain jurisdiction over Plaintiffs' federal claims only.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: May 11, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 11, 2009, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager